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April 14, 2014

PSC STAFF OPINION 2014-005

Hon. Clayton O. Oswald
Taylor, Keller & Oswald, PLLC
1306 West Fifth Street, Ste. 100
P.O. Box 3440
London, KY 40743-3440

RE: Jackson Energy Cooperative 2014-2017 Construction Work Plan

Dear Mr. Oswald:

Commission Staff acknowledges receipt of your letters submitted on March 31, 2014 and April 7, 2014, on behalf of Jackson Energy Cooperative ("Jackson Energy"), in which you request an opinion as to whether any or all projects contained in Jackson Energy's 2014-2017 Construction Work Plan ("CWP") requires a Certificate of Public Convenience and Necessity ("CPCN") or whether the projects fall within the "ordinary course of business" exemption and, therefore, do not require a CPCN.

Pursuant to the Commission's decision that each construction project contained in a CWP should be analyzed on an individual basis to determine whether that individual project is exempt from the requirement in KRS 278.020(1) to obtain a CPCN, Commission Staff has met and reviewed the projects in Jackson Energy's 2014-2017 CWP. This letter represents Commission Staff's opinion, which is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution.

As with all legal opinions requesting a determination of the exemption from the requirement of a CPCN, Commission Staff's review does not consider the reasonableness or the need for each project. Therefore, because reasonableness and need are not considered herein, or in other non-rate cases, the cost of such a project can be denied recovery in a rate case if found to be unreasonable or unnecessary.

According to its 2014-2017 CWP, Jackson Energy proposes construction identified by the following RUS Codes: (1) Code 100 construction for new services at an estimated total cost of \$12,971,158; (2) Code 300 line conversion and replacement at an estimated total cost of \$592,000; (3) Code 600 for purchasing transformers, installing new meters, service upgrades, sectionalizing, purchasing line regulators, installing capacitors, replacing poles, and miscellaneous replacements at an estimated total cost of \$11,550,030; and (4) Code 700 for new security lights at an estimated total cost of \$1,827,040. The estimated total cost of the 2014-2017 CWP is \$26,940,228.

KRS 278.020(1) provides, in relevant part, as follows:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

Regarding the exception to the CPCN requirement, Administrative Regulation 807 KAR 5:001, Section 15(3) provides, in full, as follows:

Extensions in the ordinary course of business. A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

In analyzing whether the proposed projects would materially affect Jackson Energy's financial condition, Commission Staff takes notice of Jackson Energy's 2013 Annual Report which showed that Jackson Energy had net utility plant of approximately

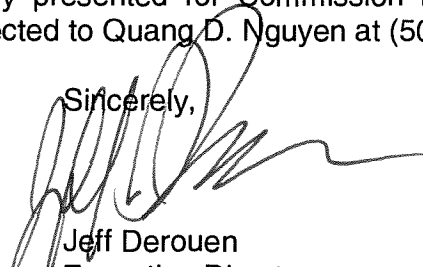
\$160,635,489 as of December 13, 2012. When reviewed individually, each proposed construction project based on its estimated cost would not materially impact Jackson Energy's existing financial condition. Therefore, each construction project is generally considered to be an extension in the ordinary course of business. Likewise, the cost estimate of each project considered separately in the 2014-2017 CWP will not have immediate or significant impact on Jackson Energy's rates. Lastly, the individual construction projects would not result in wasteful duplication of facilities or conflict with the service of other utilities. Thus, Commission Staff is of the opinion that each of the proposed projects set out in Jackson Energy's 2014-2017 CWP satisfies the "ordinary course of business" exemption from CPCN requirement.

Although Commission Staff is of the opinion that none of the projects contained in the CWP is subject to the CPCN requirement, Commission Staff would like clarification on the new meters. The CWP, page 3-2, indicates that Jackson Energy purchased 7,802 meters in 2013 at an average installed cost of approximately \$163 per meter. The information on page 3-2 also indicates that Jackson Energy forecasts a need of approximately 1,000 meters per year for the next four years at an average installed labor cost of approximately \$15. Provide an explanation as to why the number of meters that Jackson Energy purchased in 2013 was over three times the quantity of meters purchased in 2011 and 2012, and why the average installed cost per meter in 2011 and 2012 was over three times the cost incurred in 2010 and 2013. Also provide an explanation as to what types of meters were purchased in 2013, whether Jackson Energy has physical possession of those meters, and the number of meters currently in inventory. Further, provide an explanation as to how Jackson Energy arrived at the \$15 average installed labor cost for the meters for the 2014-2017 CWP. Lastly, explain why Jackson Energy is only budgeting for 1,000 meters annually for each of the four year period of the 2014-2017 CWP in light of the fact that Jackson Energy averaged 3,199 new meters for the 2010-2013 time period.

The information concerning the new meters should be provided within seven days from the date of this letter.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Quang D. Nguyen at (502) 782-2586.

Sincerely,



Jeff Derouen
Executive Director

QDN/kar